

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
Policies and Rules Governing Retirement	)	RM-11358
Of Copper Loops by Incumbent Local	)	
Exchange Carriers	)	
	)	
Special Access for Price Cap Local	)	WC Docket No. 05-25
Exchange Carriers	)	
	)	
AT&T Corporation Petition for	)	RM-10593
Rulemaking to Reform Regulation of	)	
Incumbent Local Exchange Carrier	)	
Rates for Interstate Special Access	)	
Services	)	

**Reply Comments of  
Communications Workers of America  
*Further Notice of Proposed Rulemaking***

Debbie Goldman  
501 Third St. N.W.  
Washington, D.C. 20001  
[dgoldman@cwa-union.org](mailto:dgoldman@cwa-union.org)

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Consumer advocates, state regulatory commissions, disability rights organizations, public safety associations, utility companies, and the Communications Workers of America (“CWA”) all agree: the Commission should adopt the eight criteria proposed in the *Further Notice of Proposed Rulemaking* for evaluation of a request by a provider to discontinue, reduce, or impair service. These commentators concur that adoption of clear, bright-line criteria for an “adequate substitute test” will simultaneously provide clarity to carriers as they move forward with the technology transitions that are already underway, thereby facilitating the transition to more advanced networks, and at the same time protect and advance the Commission’s core values of universal service, consumer protection, public safety and national security, and competition.<sup>1</sup> The eight proposed criteria are: 1) network capacity and reliability; 2) service quality; 3) device and service interoperability; 4) service for individuals with disabilities; 5) PSAP and 911 service; 6) cybersecurity; 7) service functionality; and 8) coverage.<sup>2</sup>

In addition to support for the Commission’s eight proposed criteria, this broad and diverse group of commentators emphasizes the importance of affordability in an adequate substitute test.<sup>3</sup> Quite simply, consumers do not consider services that are substantially more

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<sup>1</sup> See Comments of the Communications Workers of America (“CWA”), Oct. 20, 2015; Comments of AARP; Comments of Public Knowledge, Virginia Rural Health Association, National Consumer Law Center, Center for Rural Strategies, TURN, and the Benton Foundation (“Public Knowledge et al”), Oct. 26, 2015; Comments of Disability Coalition for Technology Transition (“Disability Coalition”); Comments of National Association of State Consumer Advocates (“NASUCA”), Oct. 26, 2015; Comments of the National Emergency Number Association (“NENA”), Oct. 2015; Comments of the Utilities Telecom Council, Oct. 26, 2015; Comments of the California Public Utilities Commission, Oct. 30, 2015; Comments of the Michigan Public Service Commission, Oct. 26, 2015; Comments of the Pennsylvania Public Utilities Commission, Oct. 26, 2015; Comments of National Association of Regulatory Commissioners (“NARUC”), Oct. 26, 2015. All comments filed in GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593.

<sup>2</sup> *In the Matter of Technology Transitions et al*, GN Docket No. 13-5, WC Docket No. 05-25, RM-10593, RM-11358, Further Notice of Proposed Rulemaking, Aug. 7, 2015 (rel), ¶ 208, 216-233 (“FNPRM”).

<sup>3</sup> See CWA Comments, pp. 4-6; Comments of AARP, pp. 5-8; Comments of Public Knowledge et al, pp.4-5; Comments of Utilities Telecom Council, p.1; Comments of NASUCA, p.5. All comments are in GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593.

expensive to be adequate substitutes to legacy services. Moreover, affordability is fundamental to preserving and advancing the Commission’s statutory obligation “to make available...to all people of the United States...a rapid, efficient...wire and radio communication service with adequate facilities at reasonable charges”<sup>4</sup> and to ensure, as mandated by Section 254 of the Communications Act, that “consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”<sup>5</sup>

In addition, CWA reiterates the importance that a skilled, career communications workforce, one with workers’ rights and protections on the job, plays in advancing the Commission’s core values. As part of its evaluation of service quality, the Commission should consider a carrier’s workforce to determine whether the carrier employs a skilled workforce capable of delivering quality service to customers and whether a carrier upholds the highest standards of labor rights. Certainly, a provider that has been found in violation of labor law should not be considered an adequate substitute.<sup>6</sup>

Incumbent carriers proffer various proposals which they claim will expedite Commission review of Section 214 discontinuance applications. Certainly, the Commission should be sensitive to issues of asymmetric regulation, and adopt the recommendation that would require

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<sup>4</sup> 47 USC 151.

<sup>5</sup> 47 USC 254(b)(3).

<sup>6</sup> CWA Comments, pp.1-2, 8.

all “domestic providers,” including VoIP providers, to seek Commission approval prior to discontinuance, reduction, or impairment of a voice service.<sup>7</sup> At the same time, the Commission should emphatically reject Verizon’s “safe harbor” proposal.<sup>8</sup> As a first matter, Verizon is simply wrong in its claim that the Commission’s only concern with service discontinuance is to ensure that customers can continue to make voice phone calls and reach 911. Rather, the Commission’s obligation is to ensure that *all* consumers – regardless of where they live or their economic status – receive service that is at least as good, if not better, than the service that is being discontinued, that the substitute service is affordable, and that alternative services provide core functionalities, including voice and Internet access, and compatibility with critical customer premise equipment.<sup>9</sup>

Further, Verizon’s safe harbor test would leave the door wide open for providers to discontinue, reduce, or impair service as they please, in violation of clear Commission precedent, even if a significant portion of customers would be worse off after the legacy service is shut down. Verizon proposes that the Commission adopt a rule that would give an “automatic grant” of service discontinuance if *any* of these criteria are met: fewer than 5 percent of customers subscribe to the service; the service is not used as a wholesale input; there is another provider that offers substantially the same service; there have been no new orders for the service in the past six months; the service relies on vendor equipment or inputs that have been discontinued; or the service is at or below 64 Kbps. Under this proposal, Verizon could refuse to take new orders for a service over a six-month period, or allow its network to deteriorate to such an extent that

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<sup>7</sup> Comments of Verizon, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, Oct. 26, 2015, pp. 6-7.

<sup>8</sup> *Id.*, pp. 3-5.

<sup>9</sup> CWA Comments, pp.3-13.

customers do not subscribe to the service, and then use this fact – a fact of its own making – to avoid Commission Section 214 oversight. Further, Verizon would have the Commission allow discontinuance, reduction, or impairment of service even if it would leave 5 percent of customers – which could be tens of thousands (or more) customers in a densely populated wire center – without adequate substitute service. The Commission should soundly reject this proposal.

Concerns raised by incumbent providers that the Commission’s proposals would lead to lengthy and cumbersome Section 214 reviews are misplaced. CWA acknowledges that there is merit in the proposal that routine requests that do not implicate the transition from legacy networks to new technologies should continue to be subject to the status quo approval process. But as legacy providers seek to shut down their circuit-switched, copper-network-based services, the Commission must establish clear metrics to ensure that consumers will be fully informed, will have time to adjust to the change, and, most significant, will have access to quality, affordable service with the same or better core functionalities after the transition. With clearly established criteria, the process need not be overly burdensome, and as AT&T notes, initial applications will provide a road map for subsequent applications, facilitating the process going forward.<sup>10</sup> Moreover, consumers that are reassured that new technologies will provide the same or better service, and that have adequate advance notice in order to prepare for change, will be more willing to make the transition.

CWA finds merit in the following proposals and policies that various commentators have raised, and urges the Commission to adopt these recommendations:

1. The Commission should reject as an “adequate substitute” the use of multiple alternative providers providing pieces of a substitute service.<sup>11</sup>

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<sup>10</sup> Comments of AT&T, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, Oct. 26, 2015, p.18.

<sup>11</sup> See Comments of AARP, pp. 9-10; Comments of Public Knowledge et al, pp.1-2; Comments of Michigan Public Service Commission, p.3.

2. The Commission should encourage adoption of a comprehensive consumer outreach and education program as part of the Section 214 approval process. The AARP has outlined important components of an outreach and education program.<sup>12</sup>
3. The Commission should align its advance notice requirements with those in the *Copper Retirement Order*. The California Public Utilities Commission, for example, emphasizes the need for advance notice so that Public Safety Answering Points (PSAPs) have the time needed to reconfigure their networks. The Michigan Public Service Commission also recognized the need for more advance notice. CWA emphasized the need to give consumers time to research alternative service options, comparative shop, update customer premise equipment, and learn how to use new devices.<sup>13</sup>
4. The Commission should adopt the specific network features necessary to ensure reliable, quality, affordable service to people with disabilities identified by the Disability Coalition for Technology Transitions (“Disability Coalition”).<sup>14</sup>
5. In order to protect public safety in the technology transition, service quality, network reliability and capacity, accessibility, and interoperability are all critical features for access to 911 services. The Commission should carefully consider the specific network issues that National Emergency Number Association (“NENA”) and AARP raise in their comments.<sup>15</sup>
6. The Commission should adopt an industry-wide service quality reporting program to evaluate whether an alternative service constitutes an adequate substitute.<sup>16</sup>

Respectfully Submitted,



Debbie Goldman  
Communications Workers of America

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<sup>12</sup> Comments of AARP, pp. 25-26; See also CWA Comments, pp. 13-14.

<sup>13</sup> Comments of California PUC, pp. 14-15; Comments of Michigan PSC, p.12; CWA Comments, p.14

<sup>14</sup> Comments of Disability Coalition.

<sup>15</sup> NENA Comments, p. 6; AARP, pp. 3-5.

<sup>16</sup> CWA Comments, pp.8-9; TelePacific, Citation in *FNPRM* para 218 and fn 679.